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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/531,977

04/20/2005

Philippe Roquiny

4004-068-30 NATL

5804

30448 7590 12/11/2007
AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

EXAMINER

BLACKWELL, GWENDOLYN ANNETTE

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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12/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,977

Applicant(s)

ROQUINY, PHILIPPE

Examiner

Gwendolyn Blackwell

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 19-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 19-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 19-23, 25-29, 31, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent no. 5,867,129, Sauer.

Regarding claims 1, 19-23, and 25

Sauer discloses an automobile windshield including an electrically conducting layer, which also reflects infrared radiation, (column 3, lines 5-22). The conducting layer is provided with slits (window) which is permeable to electromagnetic radiation, (column 3, lines 30-50). As the windshield meets the structural limitations of Applicant's claimed vehicle glazing, it would be expected that the related physical properties would also be present, absent an objective showing to the contrary, meeting the limitations of claims 1, 19-23, and 25. *MPEP 2112.*

Regarding claims 26-29, 31, and 34

The electrically conducting layer also enables the windshield to be electrically heated, (column 1, lines 16-21), meeting the limitations of claims 26-29 and 31.

The limitation of claim 34 are steps that require nothing but the knowledge of one of ordinary skill in the art to fine tune the efficiency for the desired result, meeting the limitations of claim 34.

3. Claims 1 and 19-34 are rejected under 35 U.S.C. 102(b) as being anticipated by International Patent Application Publication WO 01/68395, WO '395.

Regarding claims 1 and 19-31

WO '395 discloses an automotive glazing comprised of an electrically heatable solar control layer (reflects infrared radiation) with at least two data transmission windows in the coating, (abstract). The window can have different geometries, (page 5, lines 5-13). The window can have an elongated structure, (page 4, lines 21-32). As the windshield meets the structural limitations of Applicant's claimed vehicle glazing, it would be expected that the related physical properties would also be present, absent an objective showing to the contrary, meeting the limitations of claims 1 and 19-31. *MPEP 2112.*

Regarding claims 32-34

The coating is not located in the periphery (pattern of dots), (page 7, lines 6-15), meeting the requirements of claim 32.

As the windshield meets the structural limitations of Applicant's claimed vehicle glazing, it would be expected that the related physical properties would also be present, absent an objective showing to the contrary, meeting the limitations of claims 32-33. *MPEP 2112.*

The limitation of claim 34 are steps that require nothing but the knowledge of one of ordinary skill in the art to fine tune the efficiency for the desired result, meeting the limitations of claim 34.

Response to Arguments

4. Applicant's arguments filed September 27, 2007 have been fully considered but they are not persuasive.
5. Applicant contends that the prior art of record does not teach or disclose the limitations of at least present claim 1.

This is not persuasive, as Applicant has not demonstrated through the use of objective evidence that prior art of record does not teach or suggest the claimed invention. The arguments of counsel cannot take the place of evidence in the record. In re Schulze, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); In re Geisler, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997) (“An assertion of what seems to follow from common experience is just attorney argument and not the kind of factual evidence that is required to rebut a prima facie case of obviousness.”). *MPEP 2145*.

The inclusion of the new limitation “adapted to” to independent claim 1 does not change the claim in any appreciable manner. It would necessarily follow that the coating would need to be adapted and changed to fit the desired end results regarding the transmission, thereby providing no patentable distinction.

For the reasons stated above the rejection will be maintained.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

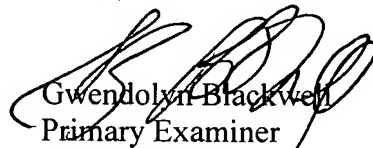
Application/Control Number:
10/531,977
Art Unit: 1794

Page 5

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Blackwell whose telephone number is (571) 272-1533. The examiner can normally be reached on Monday - Thursday; 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Gwendolyn Blackwell
Primary Examiner
Art Unit 1794